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COMMITTEE ON THE ELIMINATION OF
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ADOPTION OF THE REPORT OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN ON ITS THIRTEEN SESSION

Draft report

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Addendum

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Madagascar

1. The Committee considered the initial report of Madagascar (CEDAW/C/5/Add.65/Rev.2) at its 236th and 237th meetings, on 18 and 19 January 1994 (CEDAW/C/SR.236 and 237).

2. In introducing the report, the representative of the State party pointed out that the report suffered from certain gaps and outdated information. She noted that there was a general lack of statistical data and that the last national census had been taken in 1974. She provided information about recent measures taken to improve the situation of women, including amendments to laws and activities undertaken by the Directorate for Women's and Children's Affairs of the Ministry of Population, working in conjunction with NGOs such as the 8th of March associations. She stated that the new Constitution guaranteed complete equality for women and that a process of democratization had been in progress since 1991.

3. The country's economy had suffered as a result of structural adjustment programmes (SAPs), which had led to workers being the lowest-paid in the world.

4. Her country had participated in an African Regional Preparatory Meeting for the Fourth World Conference on Women and a national workshop had been organized in September 1992, which was being followed up by regional workshops within the country.

5. Traditions and customs in the country were important and in certain cases constituted obstacles to women's achievement of equality, while in other cases they favoured women.

6. She noted that the report did not provide information on articles 1, 2 and 3 because it was considered that the articles were phrased too generally for specific comment.

1. General observations

7. Members of the Committee expressed concern that the report lacked statistics that could indicate the de facto situation of women and noted that it lacked details on many points. In response, the representative of the Government noted that the next report would contain more statistics and would go into greater detail about issues. In many respects the country had lacked sufficient administrative infrastructure to provide much information.

8. Members of the Committee underscored their concern about the effects of SAPs on women's advancement.

9. Referring to the question of traditions and customs, it was also pointed out that traditions were deeply rooted; however, modernization did not mean abandoning them but adapting them too. Women were not just a vulnerable group but half of the population and that fact had to be taken into account when talking about progress.

10. The question was asked whether there had been any benefit to the country's having ratified the Convention. In response, the representative noted that ratification had resulted in article 6 of the new Constitution, which ensured that there would be equality between men and women, and a special preambular provision in the Constitution related to the Convention. That meant that, under the positive law doctrine in force in the country, the Convention was incorporated into all laws. In a follow-up comment, members noted that the Convention on the Elimination of All Forms of Discrimination against Women was not specifically mentioned in the Constitution, in contrast to other human rights instruments. It was observed that the Convention could help in improving the situation of women, particularly through the implementation of article 4.

11. In response to a question about the extent to which NGOs were involved in preparing the report, it was stated that an effort would be made to consult with NGOs in the next report.

2. Questions related to specific articles

Article 2

12. Having noted that no report had been made on article 2, members of the Committee stressed the particular importance of the article, which contained the entire normative infrastructure of the Convention and established the basis for the Convention's implementation. It was noted that the report reflected a patriarchal influence that would have to be addressed step by step to update the role of women, in order to raise their status in the country. In that respect there was a need for changes and new orientation.

13. In reply, the representative informed the Committee that the Government had thought there was no need to provide details as they would have emerged naturally from the development of the following articles. She stated that the information would be included in the next report. She also noted that there was a constitutional prohibition against discrimination based on sex and that there was a provision for appeals to the Constitutional Court.

Article 4

14. The representative noted that no special measures had been taken. Members expressed some concern about that matter, referring especially to the fact that, in its report on article 8, the Government had indicated that there was no prohibition as regards public service. That was insufficient and a more proper reply would be to take positive measures. There was a tendency to see only de jure matters, whereas de facto change was as important. It was noted that in fact it seemed that some special measures had been taken.

15. In reply, it was noted that the Workshop in 1992 mentioned above had recommended 50 per cent participation by women in decision-making and that, in 1993, the 8th of March Association had called for a 25 per cent quota for women in the National Assembly, although that had not yet been achieved.

Article 5

16. In assessing the implementation of the article, the representative noted that it was difficult to specify whether changes in attitudes had occurred. There was a project under the Ministry of Population with United Nations Population Fund (UNFPA) funding that was concerned with family-based education and income-generation by women, which included telling women about their rights. She also noted the important role of NGOs, particularly women journalists and the Association of Women Jurists.

17. It was asked whether the Government had a policy to eliminate discrimination in the labour force and whether there was a plan.

18. In reply, the representative noted the centres that had been established to be used for education and training, which sought to mobilize women for action. The Government had two programmes on the radio to provide education on family law.

Article 6

19. The representative noted that the problem of prostitution was found in the informal sector and was related to poverty. It was also related to rural-urban migration and urban growth. While it was illegal, laws were difficult to enforce because of an inability to recruit additional police.

20. The attention of the Government was drawn to the Committee's general recommendation 19 on violence against women, and information was requested on whether women and women prostitutes had the same rights to protection against violence as other women and access to health services and HIV/AIDS programmes. In reply, the representative stated that prostitution was generally disapproved of but that the society was flexible in condemning women because of the existing poverty and the need to survive. Violence was considered a breach of the law whether it involved prostitutes or other women, but had degrees of seriousness that were penalized appropriately, ranging from fines to imprisonment.

Article 7

21. The representative stated that women enjoyed equal rights with men as regards voting and holding office. There were 7 women deputies out of 138 in the National Assembly, although only 1 member of the Government, the State Secretary for Higher Education, was a woman. The President of the Appeals Courts was a woman, as well as one of six university rectors, and women were found at other levels of the government administration, including the Office of the Controller, which was headed by a woman. In August 1993, a campaign had begun to put women at the head of electoral lists for the next elections in 1994.

22. More details were requested in the next report on the issue of women and decision-making as well as information about the causes for their limited participation in that field.

Article 8

23. The representative noted that there was no prohibition against women representing the country at international levels, but no women had been appointed ambassador since independence.

24. Commenting on that matter, members of the Committee addressed questions about the actual situation and the measures undertaken to bring the equality in law into practice.

Article 9

25. Regarding the question of nationality, the representative said that equality was not a problem.

26. Referring to the exceptional circumstances in which the nationality of a Malagasy mother could determine the nationality of her legitimate children, the question was asked what would be the situation of a child who had to wait until she or he was of age to claim the mother's nationality if the parents divorced.

It was asked whether she or he was still prevented from receiving the mother's nationality.

Article 10

27. The representative stated that equality of access was stressed. She noted that in the provinces female enrolment was higher than male and that, in general, the success level was higher for girls than for boys. The situation had been jeopardized by the acute economic crisis since, when individual choices had to be made to send only some children to school, boys would be given preference.

Article 11

28. The representative indicated that laws guaranteed equal rights in employment in both the public and the private sectors. In 1993 a growing number of women had begun working in factories, especially in the export-processing zone and in clothing manufacturing. There had been some harassment of women reported in the export-processing zone, as well as threats by companies. The salaries paid were at the lowest levels in the world.

29. Differences were noted between the benefits provided in the public and in the private sector with regard to maternity leave and the reasons for that were sought. In reply the representative noted that the differences were due to the nature of the employer. It was easier to have the Government comply than the private sector, although the attitudes that led to the differences should be deplored.

Article 12

30. The representative indicated that there was also equality between men and women in health issues but an increase in maternal mortality had been noted in recent years.

31. Members of the Committee were concerned by the situation of rural women and their access to health, and questioned the method used for family planning and the high level of women's mortality. The representative stated that both men and women enjoyed the same rights concerning health. Nevertheless, two factors affected women's health: insufficient medical assistance and family planning. Those factors had thus determined the objectives of the national policy on population.

32. In answering a question as to whether there were special programmes for women's health, the representative stated that there were some programmes such as that relating to breast cancer and that HIV/AIDS was not a major problem in the country. In response to a question on female circumcision, she said that it was not practised.

33. The Committee requested an assessment to evaluate the result of the implementation of health policies in effect and how they influenced the youth, the use of contraceptives by women and the involvement of NGOs in those

programmes. The Committee also expressed interest in legal literacy to enable women to defend their own rights.

Article 13

34. The representative stated that women had guaranteed equal rights to assistance provided to the family and facilities for credit as well as for their participation in cultural and sports activities.

Article 14

35. The representative stated that women were guaranteed a right to participate equally in agricultural activities.

36. Taking into account the fact that the majority of the population lived in rural areas, information was requested on measures that had been taken in the agricultural fields such as agrarian reform, irrigation, credit systems and other agricultural inputs. The representative stated that women in the rural areas could participate fully in organizations aimed at their advancement and that they could own land.

37. In reply to the question raised in connection with the establishment of a bank for dealing with credit in the rural areas, the representative stated that it was a major concern in the country. However, the bank that would deal with that issue had not been established. There was a project for women which had set up a savings bank in the middle of last year; no assessment had been made as yet.

Article 15

38. The representative informed the Committee that there was no discrimination against women in the justice system and they enjoyed legal provisions on equal terms with men. Women could appear in court and represent themselves, represent others, become members of the jury, have general access to legal recourse, execute a will and be witnesses without interference from their husbands. However, in certain regions there was a custom according to which women could not inherit, although that was not supported by law. They could inherit only if a will had been executed.

Article 16

39. The representative provided additional information, stating that married women could retain their maiden names even in the context of their traditions. With respect to any apparent differences between men and women, when adultery was committed by a wife it was considered a major offence, while in the case of the husband it was regarded as a simple offence with minor penalties. She expressed disapproval in that regard, and indicated that women were working together to tackle that point in the National Assembly. In order for women to enjoy peace, equality and development, they needed to win their rights.

40. Questions were raised about the situation of married women, including equality in the choice of domicile, and the implementation of laws that placed

women in a disadvantaged position with respect to men. Other issues raised along the same lines concerned unregistered common law unions and other traditional practices, which affected the dignity of the woman: e.g., when the husbands had to pay compensation in cases of conflict and temporary separation; the difference in legal age for marriage between boys and girls; the provision of the Convention on the Rights of the Child, by which a 14-year-old was a child, and the provision of the national law granting the right to marry to a 14-year-old girl; polygamy, which, although forbidden by law, was increasing; inheritance rights and property rights.

41. In response to the questions, the representative explained that some practices and traditions were favourable to women, who did not object to them. Examples included being allowed to retain their maiden names and to receive gifts in the course of solving marital conflicts.

42. According to the representative, in the view of the women of the country, the compensation that was provided by the husband to the wife was not considered as a price but as a penalty. It was also seen as a way of apologizing, which the women liked very much. In addition it was also seen as a compensation for abuses by the husband.

43. She explained that polygamy was beyond the control of the law as the problem lay in the gap existing between the law and its enforcement. Many people lived at the margin of the law and, given the inadequate number of police, people could easily violate the law with impunity.

44. In providing an explanation in connection with spousal inheritance rights, she explained that, in the absence of a will, the surviving spouse was relegated to the eighth place among the heirs by virtue of a custom of retaining the property within a family and thus giving preference to children in terms of inheritance.

45. With regard to the property acquired during the marriage, she provided additional information to the effect that, when one of the spouses died, the community property came to an end and, in accordance with the law, the property acquired during marriage was divided into two if no will had been made. Customary practice supported the principle that property acquired before the marriage remained the property of the family. There had been changes in the new law with respect to domicile, according to which the decision had to be taken jointly by the spouses. Another change indicated concerned the pension for the widow of an official, who was now allowed to continue receiving the pension of the late husband. Those points were indicated as part of the progress made with respect to equality of women.

46. The differences between boys and girls in the allowable age for marriage had been based on fecundity. It was noted that the practice was also contrary to the Convention on the Rights of the Child.